

## Death Penalty

The death penalty also known as capital punishment is the punishment of execution administered to those found guilty of a capital crime(s). In the United States, the Congress and the state legislatures have the obligation to prescribe the death penalty for murder or other capital crimes. According to the Supreme Court rulings, the death penalty is not in violation of the Eighth Amendment of the Constitution especially the ban on the cruel and unusual punishment. Additionally, the Sixth Amendment of the Constitution required that no jury was supposed to oversee the ruling of any case concerning the death penalty (Van den Haag, 2013). Nineteen states have already abolished death penalty while the federal government and thirteen-one remaining states still practice this form of punishment. Those states that have not yet abolished death penalty use various methods such as lethal injection, gas chamber, electrocution, firing squad and hanging to execute the offenders. The crimes that qualify for capital punishment in the United States include; terrorism, espionage, treason, large scale drug trafficking, an attempt or killing a witnesses or juror involved in certain cases, and federal murder (Van den Haag, 2013).

The debate over the death penalty is getting hotter every day. The proponents of the death penalty argue that capital punishment is the path to solving the heightening criminal activities in the United States. Also, the argument cites the retribution rationale of punishment which gives the society the power to inflict pain in those who hurt others in the society. Important to mention, the proponents use the Constitution to defend death penalty saying that both the Eighth and Six Amendments allows for the same and because it is the reference points in every decision made within the land, there is nothing unconstitutional. However, the critiques of death penalty seem

less convinced that it is a good thing for the people of the United States. Their arguments are based on the facts that there is no evidence to show that capital punishment deters offenders.

Another center of their argument is based on the morality of the act. Additionally, the critiques believe that capital punishment is unfeasible and very expensive to the taxpayers. According to this paper, however, the death penalty is bad and should be abolished in all the states and the federal levels. To prove this point and convince the readers beyond the reasonable doubts, we will use different theories of punishment to prove otherwise that capital punishment offers no good to the justice system of the country. We will, however, first look at the historical background of capital punishment in the United States and review some of the important events surrounding the matter.

### **Historical background of Capital Punishment in the United States**

Capital punishment was first introduced in the United States during the colonial era. The European settlers came to the United States and introduced death penalty as one way of ensuring that their rule over the land was felt and followed. Though the first established death penalty law on earth dated as back as Eighteenth Century B.C, it took hundreds of years for the first person to be executed on the United States land. The death penalty in the United States can be traced back to 1608. The execution records indicate that Captain George Kendall in the Jamestown colony of Virginia was the first American to be executed in 1608. Kendall met his fate when he was accused of being a spy for Spain. Four years later, Virginia Governor Sir Thomas Dale enacted the Divine, Moral and Martial Laws (Canes-Wrone, 2014). These laws provided that a person can be applied to minor offenses such as trading with the Indians, stealing grapes and even

killing chicken owned at home. During the colonial era, the death penalty was ruled variedly from one colony to the other. After the first execution that was witnessed in Virginia, the Massachusetts Bay Colony followed the suit and conducted its first execution in 1630. With the change in time, different rules changed and various laws enacted as far as the death penalty was concerned. One of the major events that are worth looking at is the institution of the Duke's Law of 1665 by the New York Colony. According to this law, denying the 'true God' constituted one of the offenses that were punishable by death. Years even beyond the colonial rule, the United States found itself in the need for reforms. However, such movements were inspired by different authors who used their art of writing to influence the government and people's stance on death penalty. Such works included Cesare Beccaria's 1767 essay, *On Crimes and Punishment*. In the essay, Beccaria theorizes against the general belief that the state has the right to take the life of an individual (Canes-Wrone, 2014). It was this essay together with many more efforts from different regions within the United States that propelled the wheels of the Abolitionist Movement. The wake of the Nineteenth-century saw many reforms as made concerning the death penalty. Capital crimes were reduced only to murder and treason. In the 20th-century, various states started to abolish death penalty while others held to what the colonial government brought to their land.

## **The Arguments against Death Penalty**

### **Morality**

The death penalty is immoral. The moral well-being of the people of the United States is guided by unwritten laws that are run deep within culture and religion. The culture of the

majority of the people disagrees with the act of taking one person's life as punishment for another crime. Additionally, the behavior of the people is guided by the Holy Bible and the Quran, both which does not agree with the act of killing or executing an individual. Additionally, the various methods used during execution such as lethal injection, firing squad, hanging, and electrocution involve a third party which must have a hand in the process. In other words, from the ethics and moral sides of view, it is like the person who lowers the nooses or files the syringe for lethal injection participates in the killing of the offender. Therefore, with minimal support of death penalty from both the ethics and moral perspectives, there are no reasons for the federal and the state government to continue subjecting the people to what their standards do not allow.

### **Death of the Innocents**

Death penalty legitimizes the ability by the states to indulge in an irreversible act of violence that, inevitably, will claim the lives of the innocent citizens. Over the past few decades that the United States has been practicing the death penalty, there are a number of cases where innocent people have been pulled out of the death row just seconds before they are executed. Unfortunately, there are those who were never lucky ending up executed innocently. The mistake is to human and the judges are prone to them and cannot be ruled whatsoever what. One of the major factors that have prompted the increased number of innocent killings as far as the death penalty is concerned is the ruling that was given by the Sixth Amendment which said that jurors were not supposed to oversee a capital hearing. The lack of jurors offers the accused little or no chance to prove their innocence, and in the event of a mistake, it will be irreversible. Killing innocent people is a way of devaluing life. A society where life is devalued standards no chance

to attain the confidence that the people will support the developmental programs and make the surrounding a better place for others and them. Additionally, a person whose life has been devalued will see no benefit in valuing another person's life. Abolishing death penalty, not only in the United States, but the world as a whole is the first step to showing the importance and value of life. This will result in a restored belief leading to societies where people appreciate life and understand that no one, irrespective of their position within the community, has the right to end the life of one another. We strongly believe that this is the first step to ensuring world peace and safe coexistence.

### **Retribution is wrong**

Retribution is a punishment theory that holds that the society has the power to inflict pain on the person who causes harm to others. Historically, people who committed adultery would be brought to the public and stoned to death. The current justice system that applies this rationale borrows a leaf from the ancient punishment that was used as vengeance against the wrongdoings by the people. According to this theory, the offender of crime should be subjected to the same suffering as the victims. According to the US Catholic Conference, we cannot teach against killing through killing as well, we cannot pay evil with evil (Haney, 2015). Retribution is just a sanitized form of vengeance which is immoral at both ends. The justice system of the states that still allows for the death penalty and the federal government uses the retribution theory as a way to support the execution of the capital offenders. Apart from the fact that retribution is immoral and a form of vengeance, we are not convinced that it is actually a way of inflicting the same pain to the offender as that felt by the victims (Haney, 2015). Take an example of trafficking a lot

of drugs as one of the capital offense. It is not possible to establish the range of the effects the offender had on the victims in any case his or her products reached the market. In other words, crimes other than murder do not receive the equal punishment that mimics the crime. The law is sidelined and does not serve the general public on a fair ground lacking the necessary equity that every law requires to be enacted. Thus, the notion that death penalty is a method of retribution is poorly constructed and requires a relook before subjecting offenders to capital punishment.

### **Death penalty does not deter people from committing serious crimes**

Deterrence theory has been used in the defense for death penalty now and before. According to this theory, through brutal punishment, the general citizens develop the fear of participating in criminal activities. Deterrence theory suggests that punishment is a tool that should deter the people from the same crime as that of the person punished or another that have the same weight (Donohue, 2015). Through executing the capital offenders, therefore, one will learn from the punishment and refrain from involving in the same crime. This belief is not true in any way or whatsoever. First, there are no scientific proofs that indicate how death penalty in the United States has been successful in deterring people from capital offenses. The only thing that has so far been proved is that capital punishment reduces the chances of an offender being arrested. Once an individual has participated in what might look like a capital offense, they do whatever is at their disposal to ensure that they cover all the evidence, and if possible, kill all the witnesses as a cover-up (Donohue, 2015). The race, therefore, is not to avoid involving in a criminal act, but to ensure that you are not caught once you have offended. Additionally, deterrence theory is unconvincing. The public fails to understand how a person's criminal history

can be used to determine the future of the entire community. Additional to that, there are people who have been accused as scapegoats in the events of criminal activities. In the end, these people get executed with the vision of creating an environment where people learn the fruits of crime. The baseless nature of deterrence policy and how it has failed to convince the people beyond reasonable doubts makes death penalty an irrelevant form of punishment in the present ages. The people deserve the truth, fair trial and a punishment that mimic their crime. The blind justice system of the country is getting the lead from a blind method. We can just assume the results of the lead, which everyone will agree, is not the best the country can get. Abolition of the death penalty will restore the relevance of the justice system which is to create a safe environment for the citizens.

### **Death Penalty is cruel, inhumane and can lead to the execution of mentally ill**

Strangulation, lethal injection, electrocution, and shooting are just some of the methods used across the United States to execute the capital offenders. These methods according to Canes-Wrone, (2014) are obviously dangerous to the person facing the execution. Additionally, the families and friends of the person will never forget how their member of the family was killed. The memory will keep haunting them leading to stress and depression that can result in more harm. Apart from the harm that comes with the death penalty, there have also been cases where people with mental health disorders get executed. It is wrong according to the United Nations Declaration to subject a mentally unstable person to torture and harmful environment. Over the history death penalty in the United States, people with mental health problems, some of who did not have knowledge of how they committed capital crime have been executed. Unlike in

the innocence cases, there are cases over history where the court had full knowledge of the offender's health conditions but still charged them to capital punishment. This clearly indicates how the system has lost the path, killing those who need help.

### **Death Penalty, Race and the Cost**

The United States is a diverse nation with people from different backgrounds. The minorities have been at the receiving end as far as death penalty raising questions on how equitable it is in terms of race. History shows that most of the people that have been executed in the United States are majorly from the minority communities such as the African-American people. The system is flawed and does not reflect the United States which the forefathers dreamed. For instance, the United States was founded on the basis of equality where its children were viewed as equal irrespective of their color and race. Unfortunately, this dream is yet to be achieved as death penalty has been used as a means of punishing the minorities with the majority feeling no pressure.

Apart from the fact that death penalty is biased and does not reflect the dreams of the forefathers; the program is expensive and unfeasible. The death penalty costs the United States a lot of money on the annual basis. Maintaining each death row prisoner costs the taxpayers an average of \$90,000 a year. Compared to the cases without the death penalty, the cost is very high, something that hurts the taxpayers. How much flawed the system is, the death penalty is still eating deep into the pockets of tax-payers. The money used to contain the death row prisoners could have been invested in other areas such as rehabilitation or a life sentence without parole.

### **Arguments for Death Penalty**

We have seen some of the arguments against the death penalty; it is now time to have a brief look at what the proponents say. First, the death penalty is a way to deter offenders from committing more crimes (Manski, 2013). We refute this claim by saying that there is no evidence to show that the criminal levels in the states that have already abolished the practice are different from those still practicing. Therefore, this belief is unconstructed, uncouth, and irrelevant and lacks authenticated evidence to prove beyond the reasonable doubts that death penalty will save the country from the rising criminal activities.

The second argument claims that the Sixth and Eighth Amendment provides for the death penalty. According to the Eighth Amendment, the death penalty is not in the violation of the cruel and unusual punishment. Within the same Constitution, there is the Bill of Rights. The Constitution stipulates that every citizen has a right to life. Though the Eighth Amendment says that death penalty does not violate the cruel and unusual punishment, there are still flaws in the system as it is not properly stipulated who should be subjected to capital punishment. We have already seen that there are cases where the innocent citizens and those with mental health disorders got subjected to the death penalty. Additionally, the flaws showcase when the same Constitution which is supposed to serve all the citizens, favor a portion while subjecting another to torture. In case the Constitution was to be used as a defense against the death penalty, then the same should be used as a defense of humanity and basic rights. Finally, according to the proponents, death penalty is moral as less painful methods are used to execute the offenders. These beliefs are wrong. Even though the methods can be physically harmless, they still do not prove to be morally or ethically justified.

## Conclusion

Having looked at the both sides of the debate, there is one thing that comes out clear, the death penalty is bad. The death penalty is immoral, costly to the taxpayers, racially biased, and does not deter offenders and not a justification of the retribution theory of punishment. We have also seen that the supporting side of death penalty lack justification and evidence to support that death penalty will help solve the criminal problems the United States is facing. We stick by the point that all the states in the United States including the federal government should abolish the death penalty as soon as possible to show how valuable the life is. Without abolishing the death penalty, the system will keep on being biased as the value of life will deteriorate. Ban death penalty to restore justice for all.

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